



FEDERAL ELECTION COMMISSION
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MEMORANDUM

SENSITIVE

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner *LL*
Associate General Counsel

SUBJECT: Pre-MUR 373
Cadeau Express, Inc.
Ramon Desage

I. BACKGROUND

On December 1, 1998, the Commission received a referral from the Department of Justice involving Cadeau Express, Inc. ("CEI"), a corporation located in Nevada, and Ramon Desage, the president and principal owner of CEI. The Department of Justice has conducted a criminal investigation involving CEI and Ramon Desage and has entered into plea agreements with both parties. Pursuant to their respective plea agreements, Ramon Desage has paid a \$125,000 criminal fine and CEI Inc. has paid a \$50,000 criminal fine.¹

The plea agreements state that Ramon Desage and CEI wish to resolve their civil and administrative liabilities with the Commission in conjunction with the resolution of their criminal liability in this matter. Ramon Desage and CEI have agreed to submit to the Commission's jurisdiction, to cooperate with the Commission in its compliance proceedings against them, including waiving notification procedures to which they may be entitled, all evidentiary privileges, and any statute of limitation which may be applicable to Commission compliance proceedings, and to enter into a conciliation agreement and to pay whatever civil

¹ The Plea Memorandum with Ramon Desage states that "the parties agree that the defendant should be sentenced at most to a period of probation not to exceed 12 months and ordered to pay a fine in the amount of \$125,000 and to perform 150 hours of community service."

penalty the Commission deems appropriate pursuant to the provisions of 2 U.S.C. § 437g(a)(5). The plea agreements continue on to state that both CEI and Ramon Desage have each agreed to pay \$10,000 to the Commission in settlement of this matter.²

II. FACTUAL AND LEGAL ANALYSIS

According to the Criminal Information and Plea Memoranda, in or about May and June of 1995, Ramon Desage owned CEI and knowingly and willfully caused five people to make separate \$1,000 contributions to the Dole for President campaign. In May or June of 1995, Ramon Desage caused CEI to reimburse these five people for the contributions they made to the Dole campaign, knowing that it was illegal for him to do so. The Criminal Information states that Ramon Desage "knowingly and willfully caused Cadeau Express, Inc. to make illegal campaign contributions to the Dole for President campaign" in violation of 2 U.S.C. §§ 441b(a) and 437g(d) and "knowingly caused a person to make a contribution to the Dole for President, Inc. campaign in the name of another person," in violation of 2 U.S.C. § 441f. The Plea Memorandum with Ramon Desage states that he will plead guilty to a two-count Information charging him with two misdemeanors: making illegal campaign contributions, in violation of 2 U.S.C. § 441b, and with unlawfully causing the name of a person to be used in connection with the making of a campaign contribution, in violation of 2 U.S.C. § 441f. The Plea Memorandum with CEI states that CEI "knowingly and willfully made illegal campaign contributions to the Dole for President, Inc. campaign" in violation of 2 U.S.C. § 441b(a) and § 437g(d).⁴

Pursuant to 2 U.S.C. § 441b(a) it is unlawful for any corporation to make a contribution or an expenditure in connection with a federal election, and it is unlawful for any officer or director of any corporation to make a contribution or expenditure in connection with a federal election. Pursuant to 2 U.S.C. § 441f, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution and no person shall

² Two checks totaling \$20,000 and payable to the Federal Election Commission were included with the referral from the Department of Justice

⁴ In the Plea Memorandum, CEI "admits that it knowingly and willfully violated 2 U.S.C. §§ 441b and 441f "

knowingly accept a contribution made by one person in the name of another person.

As the president and principal owner of CEI, Ramon Desage's actions committed CEI to liability. The information contained in the materials provided by the Department of Justice state that Ramon Desage knowingly and willfully consented to the making of the contributions at issue and caused the reimbursements by CEI, in violation of 2 U.S.C. §§ 441b(a) and 441f. It is, therefore, the recommendation of this Office that the Commission open a Matter Under Review and find reason to believe that Ramon Desage knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f, and that Cadeau Express, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f. In addition to the reason to believe findings, this Office recommends that the Commission approve the attached conciliation agreements with Ramon Desage and CEI which each provide for admissions of the violations and a \$10,000 civil penalty. This Office believes that the total amount of the civil penalties is acceptable in light of the fact that Ramon Desage and CEI have agreed to pay a total of \$175,000 in criminal fines.

Although ordinarily we would not proceed immediately with this matter under the Enforcement Priority System, this Office believes that the unusual circumstances of the matter warrant special handling. In this instance, an investigation already has been conducted by the Department of Justice, plea agreements have been entered into by Ramon Desage and CEI, and both parties stand ready to enter into conciliation agreements with the Commission and are offering to pay a total of \$20,000 in civil penalties. This matter is similar to MUR 4704 (American Family Life Assurance Company), MUR 4772 (Sun-Land Products of California), MUR 4796 (DeLuca Liquor and Wine, Ltd.), and MUR 4834 (Howard Glicken) which were referred to the Commission after agreements were reached with the respondents that they submit to the Commission's jurisdiction and pay a civil penalty. Accepting limited referrals such as this one where the evidence supports a finding and the respondents voluntarily agree to a civil penalty as part of that referral, is a way for the Commission to impact the process, expending only minimal resources.

III. RECOMMENDATIONS

1. Open a Matter Under Review.
2. Find reason to believe that Ramon Desage knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.
3. Find reason to believe that Cadeau Express, Inc. knowingly and willfully violated 2 U.S.C. §§ 441b(a) and 441f.

4. Enter into conciliation with Cadeau Express, Inc. and Ramon Desage prior to findings of probable cause to believe.
5. Approve the attached Conciliation Agreements.
6. Approve the appropriate letter.

Attachment:

1. Conciliation Agreements (2)